REMARKS

Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

Claims 1-20 are pending in this application. Claim 8 has been clarified to depend from claim 7 for proper antecedent basis. No new matter is added.

The claims herewith are patentably distinct over the prior art, and these claims are in full compliance with the requirements of 35 U.S.C. §112. The additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§101, 102, 103 or 112. Rather, these additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

The July 11, 2005 Office Action called for restriction from among the following:

I. Claims 2, 3, 4, 6, 7, 10, 11, 12, 14, 15, 16, 17 and 18, drawn to a recombinant adenovirus vector comprising (i) a gene encoding a heterologous protein; (ii) a modified fiber protein comprising an immunoglobulin domain, and (iii) a gene encoding a fusion protein comprising a targeting ligand and an immunoglobulin Fc domain, wherein said immunoglobulin binding domain is inserted into the HI loop, classified in class 435, subclass 320.1;

II. Claims 2, 3, 5, 6, 7, 10, 12, 13, 14, 15, 16, 17 and 18, drawn to a recombinant adenovirus vector comprising (i) a gene encoding a heterologous protein; (ii) a modified fiber protein comprising an immunoglobulin domain; and (iii) a gene encoding a fusion protein comprising a targeting ligand and an immunoglobulin Fc domain, wherein said immunoglobulin binding domain is inserted into the carboxy terminal of said fiber protein, classified in class 435, subclass 320.1 and

III. Claims 19-20, drawn to a method of gene transfer to CD40+ cells comprising contacting said cell with a targeted adenovirus vector, classified in class 424, subclass 93.2.

Group II is elected, with traverse, for further prosecution in this application. Applicants reserve the right to file divisional applications to non-elected subject matter. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

As a traverse, it is noted that the MPEP lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct. MPEP § 803. Second, searching the additional inventions must constitute an undue burden on the examiner if

restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden, ...even though it includes claims to distinct or independent inventions." *Id.*

Groups I, II and III are directed to recombinant adenovirus vectors methods of targeting a cell with the same. Groups I and II are directed to a recombinant adenovirus vectors comprising (i) a gene encoding a heterologous protein; (ii) a modified fiber protein comprising an immunoglobulin domain; and (iii) a gene encoding a fusion protein comprising a targeting ligand and an immunoglobulin Fc domain and Group III is directed to a method of gene transfer to CD40+ cells comprising contacting the cell with the targeted adenovirus vector of Group I or Group II. It is respectfully submitted that any search for the method of the Group III claims will certainly encompass references for the adenovirus vectors of the Group I or Group II claims. These groups are inextricably linked in that the compositions of all of the groups are recombinant adenovirus vectors comprising (i) a gene encoding a heterologous protein; (ii) a modified fiber protein comprising an immunoglobulin domain; and (iii) a gene encoding a fusion protein comprising a targeting ligand and an immunoglobulin Fc domain. Therefore, it is respectfully submitted that it would not place an unnecessary burden on the Examiner to search and examine all of the groups together, as a search for the Group III methods would necessarily include the Group I and Group II compositions.

Groups I and II are directed to recombinant adenovirus vectors comprising (i) a gene encoding a heterologous protein; (ii) a modified fiber protein comprising an immunoglobulin domain; and (iii) a gene encoding a fusion protein comprising a targeting ligand and an immunoglobulin Fc domain. Groups I and II are both classified in class 435, subclass 320.1. Group I is directed to inserting the immunoglobulin binding domain in the HI loop and Group II is directed to inserting the immunoglobulin binding domain in the carboxy terminus of the fiber protein. It is respectfully submitted that any search for the sequences of the Group I claims will certainly encompass references for the sequences of the Group II claims. These groups are inextricably linked in that the compositions of all of the groups are recombinant adenovirus vectors with modified fiber proteins comprising an immunoglobulin domain. Therefore, it is respectfully submitted that it would not place an unnecessary burden on the Examiner to search and examine both groups together, as a search for the Group I compositions would necessarily include the Group II compositions.

It is Applicants' understanding that, upon the allowance of a linking claim, this restriction requirement will be withdrawn and Applicants will be entitled to consideration of claims to additional agents, which are written in dependent form or otherwise include all of the limitations of an allowed linking claim. Currently, claims 1 and 9 link Groups I and II.

In view of the above, reconsideration and withdrawal of the restriction requirement is respectfully requested.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each Group would be likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

Consequently, reconsideration and withdrawal of the restriction requirement are respectfully requested.

CONCLUSION

In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested. Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

The Commissioner is hereby authorized to charge any additionally required fee, or credit any overpayment in fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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